Remarks

The Examiner has rejected Claims 1 and 9 on the ground of nonstatutory obvi-ousness-type double patenting as being unpatentable over claim 1 of copending Appli-cation No. 11/436,753. Applicant files herewith a Terminal Disclaimer.

The Examiner has rejected Claims 1 and 9 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,029,150 ("Kravitz") in view of U.S. Patent No. 5,623,547 ("Jones et al.") and further in view of U.S. Patent No. 6,078,902 ("Schenkler"). Applicant respectfully disagrees.

Claim 1 requires among other limitations "a money code, said money code con-taining no identification data related to a customer and being <u>untraceable to said cus-tomer</u>", "software executing on said issuer computer for receiving said money code and a money amount from a customer, assigning an associated money value to said money code based on said money amount received from the customer, transmitting said money code and associated money value to said financial institution computer" and "software executing on said customer computer for transmitting an order and said money code to said merchant computer over said communications system."

Claim 9 requires among other limitations "a money code, said money code con-taining no identification data related to a customer and being <u>untraceable to said cus-tomer</u>", "software executing on said issuer computer for receiving a money amount from a customer, generating said money code" and "software executing on said customer computer for transmitting an order and said money code to said merchant computer over said communications system."

Claim 17 requires among other limitations "assigning an associated money value to a money code corresponding to a money amount surrendered to an issuer by a cus-tomer, said money code containing no identification data related to a customer and be-

ing <u>untraceable to said customer</u>, inputting said money code and associated money

value into said issuer computer" and " transmitting an order and said money code from

a customer computer to said merchant computer over said communications system."

U.S. Patent No. 6,029,150 ("Kravitz")

Kravitz is primarily directed toward a system to prevent fraud. This is accom-

plished by disclosure of the customer identification to an agent. For example, Kravitz

states that "customers have accounts with an agent and where each customer shares a

respective secret between that customer and the agent." (Col. 7, lns. 13-15; *see gener-*

ally Col. 7, lns. 3-30.) Kravitz goes on to state that a "problem with payment systems

that make an instantaneous payment to merchants is that if a fraudulent merchant is

accepting many fraudulent transactions, he might not be detected until he had already

received much money" and that the system of Kravitz provides "a payment system . . .

with <u>moderated anonymity</u> and <u>strong authentication</u>, standards-based and open archi-

tecture and adaptability for anomaly detection for detection of fraud." (Col. 6, ln. 59 –

col. 7, ln. 6) (emphasis added) Therefore, while Kravitz may provide some level of ano-

nymity for the purchaser with respect to a seller, *nowhere* does Kravitz teach or disclose

that purchases are "***untraceable*** to said customer" because the agent must know who

the customer is. (Col. 24, lns. 64-67.) This is, in fact, the way Kravitz goes about ad-

dressing the problem identified with "instantaneous payment" systems, which is what

the present system is. Therefore, Kravitz <u>directly rejects</u> the limitation of providing a

system that has "no identification data related to a customer and being untraceable to

said customer" as required by claims 1, 9 and 17.

It is well settled that if the proposed modification would render the prior art inven-

tion being modified unsatisfactory for its intended purpose, then there is no suggestion

or motivation to make the proposed modification. MPEP 2143.01; *In re Gordon*, 733

F.2d 900, 221 USPQ2d 1125 (Fed. Cir. 1984). In the present case, Applicant respect-

fully submits that modification of Kravitz to include "no identification data related to a

customer and being untraceable to said customer", or combination of Kravitz with an-other reference to arrive at this limitation cannot be obvious because this works directly contrary to and was expressly rejected by Kravitz.

The Examiner has disagreed with Applicants reading of Kravitz stating that "Kravitz (US 6,029,150) discloses an anonymous transaction of digital goods between a merchant and a customer." (Official Action 7/6/07, p. 2 & 8) Applicant notes, however, that all of the present claims recite "no identification data related to a customer and be-ing untraceable to said customer." This requires more than simple anonymity between customer and merchant as suggested by the Examiner. The claim recites no identifica-tion data related to a customer and being <u>untraceable to said customer</u>. In Kravitz, there is identification data related to a customer given to the agent, therefore the cus-tomer can be identified in the purchase by the agent if need be. As stated above, Kravitz must have the customer identification information to provide the needed secu-rity. Without such, the system in Kravitz cannot function to prevent "fraudulent transac-tions." As Applicant expects the Examiner is aware, all limitations of all claims must be considered, because it is improper to fail to consider any limitation in the claims. *In re Geerdes*, 491 F.2d 1260, 1262, 180 U.S.P.Q. 789, the 791 (CCPA 1974).

Accordingly, not only does Kravitz fail to teach "no identification data related to a customer and being untraceable to said customer", Kravitz directly rejects this limitation.

U.S. Patent No. 5,623,547 ("Jones et al.")

Applicant respectfully submits that Jones et al. also fails to teach or disclose "no identification data related to a customer and being untraceable to said customer" as re-cited in all the pending claims.

For example, Jones et al. teaches use of multiple bank accounts that can be used to identify the customer. (Col. 1, lns. 42-67) In commenting on anonymous "pre-payment cards", Jones et al. rejects such systems stating that "[s]uch prior systems are

inflexible and are no general substitute for cash in low value high volume transactions."
(Col. 1, lns. 25-27.) Therefore, not only does Jones et al. fail to teach "no identification
data related to a customer and being untraceable to said customer", but Jones et al. re-
jects this type of system.

U.S. Patent No. 6,078,902 ("Schenkler")

Applicant respectfully submits that Schenkler also fails to teach or disclose "no
identification data related to a customer and being untraceable to said customer" as re-
cited in all the pending claims.

For example, Schenkler teaches that specific customer information must be pro-
vided to the merchant stating "[h]aving received the cost data, the user establishes a
cryptographic secured session with a trusted party (i.e. a clearing office). The user
sends via the cryptographic secured session, all the relevant data that is required for the
clearing office in order to approve the transaction. Accordingly, the relevant data in-
cludes user privileged information such as the user's credit card number (or electronic
wallet ID and password)." (Col. 3, lns. 17-24) Accordingly, not only does Schenkler fail
to teach "no identification data related to a customer and being untraceable to said cus-
tomer", but Schenkler rejects this approach.

Examiner's Response to Arguments

The Examiner has submitted that "[i]n response to applicant's arguments against
the references individually, one cannot show nonobviousness by attacking references
individually where the rejections are based on combinations of references." (Official Ac-
tion 7/6/07, p. 4) Applicant agrees. However, Applicant notes that when considering a
reference, the reference must be considered for its teachings as a whole and it is inap-
propriate to pick and choose various elements from the references without regard to
what the references teach as a whole. *In re Arkley*, 455 F.2d 586, 587-88, 172
U.S.P.Q. 524, 526 (C.C.P.A. 1972). Applicant further notes that modification of one or

more references where the modification is contrary to stated objects of the invention in the references cannot be obvious. MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 USPQ2d 1125 (Fed. Cir. 1984). In the present case, Applicant has argued that none of the cited references teach or disclose "no identification data related to a customer and being untraceable to said customer." Applicant has further argued that it would be inappropriate to modify the cited references to include such a limitation as the references themselves reject such a modification.

It is respectfully submitted that claims 1-19, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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___/Gene S. Winter/_____
Gene S. Winter, Registration No. 28,352
Steven B. Simonis, Registration No. 54,449
Attorneys for Applicants
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
Tel. 203 324-6155